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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/582,945	07/07/2000	RUDOLF RITTER	PM271464	4546

7590 12/15/2003  
Pillsbury Winthrop LLP  
1600 Tysons Boulevard  
McLean, VA 22102

EXAMINER
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D AGOSTA, STEPHEN M

ART UNIT	PAPER NUMBER
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2683

18

DATE MAILED: 12/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/582,945

Applicant(s)

RITTER, RUDOLF

Examiner

Stephen M. D'Agosta

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

Applicant's arguments, see amendment, filed 11-26-03, with respect to the rejection(s) of claim(s) 1 and 3-19 under USC 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Olaniyan.

1. The arguments made by the applicant during the interview (held on 12-1-03) were persuasive. A new rejection, with new art, is provided below.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 3, 5-15 and 17-19** rejected under 35 U.S.C. 103(a) as being unpatentable over Olaniyan US 5,852,610 and Oba Des. 356,079 and Bottum US 6,014,569 and Johnstromer US 6,142,369 (hereafter Olaniyan, Oba, Bottum and Johnstromer).

As per **claims 1 and 14**, Olaniyan teaches a telecommunication method (title), comprising:

Receiving, by a telecommunications mobile device (C3, L8-14 and C3, L15-25) containing a radio receiver and/or television receiver therein (figure 1, #22, #24 and #38), data transmitted over a broadcast channel (eg. AM, FM or TV broadcast);

Reproducing, by said mobile device, the media program on said mobile device (device can inherently reproduce the received AM/FM and TV data)

Entering a command by the user, Preparing a message corresponding to the entered command, the prepared message including at least one data field from the received digital data, and Sending the prepared message over a mobile radio network (figure 2, shows "user makes selection and receives desired broadcast" which requires a menu selection, command entering and message back to broadcast center).

Program data accompanying the broadcast (C3, L45-52 and C3, L57-60)

**But is silent on** displaying information corresponding to the received digital data on a display of said device, an ID card and a message with identification from the ID card.

Oba teaches a portable TV receiver that would be used to receive a TV broadcast and display any program data transmitted with said broadcast signal.

Bottum teaches a mobile interactive radio system with a display that uses identification information from a user (C5, L19-39) who selects from program data (C5, L40-49 and figure 4 flow chart) audio programs of interest (abstract, figures 1-4 and C4, L49 to C5, L12). The examiner notes that Bottum's "authorization process" (C5, L19-39) will inherently associate the user to the audio provider for the duration of the connection, which reads on messages between the two will contain the User's ID for any selection made by said user.

Lastly, while SIM cards are well known in the art, **Johnstromer** teaches any mobile phone (eg. Video phone which are known in the art) that uses a smart/SIM card which identifies the user (C1, L27-44).

It would have been obvious to one skilled in the art at the time of the invention to modify Olaniyan, such that program data is transmitted and displayed on the device and an ID card is used to identify the user and their transmitted messages, to provide means of reading program data in a broadcast and identify themselves in any reply sent.

As per **claim 3**, Olaniyan teaches claim 1 **but is silent on** wherein the displayed Information contains at least one menu from which a command can be selected.

Bottum teaches program selection from a menu (see figure 1, #170 user interface and figure 2, #232 menu).

It would have been obvious to one skilled in the art at the time of the invention to modify Olaniyan, such that displayed information contains a menu selected via commands, to provide means for the user to receive a listing of available selections in menu form and for the user to select preferred listings.

As per **claim 5**, Olaniyan teaches claim 1 wherein when the components for processing/displaying are switched off, the digital data is temporarily stored in a buffer and not processed until the components are switched on (figure 3, #34 and C7, L60-63).

As per **claim 6**, Olaniyan teaches claim 1 **but is silent on** wherein the received digital data is packed in messages which are first evaluated in order to determine whether the messages are to be displayed. .

The examiner points out that the processing of data received has many possibilities, including FIFO, LIFO, etc.. The examiner points out that the way in which data is processed is a design choice since there are several possibilities that exist, each of which have their merits depending upon the situation/user environment. Yoshinobu is interpreted to provide FIFO processing since it is an interactive system that prefers action as a message is received. It would have been obvious to one skilled in the art at the time of the invention to modify Olaniyan, such that data is evaluated in order to determine whether they must be displayed, to provide an "evaluation step" that determines whether the message(s) are important enough to be displayed or not.

As per **claim 7**, Olaniyan teaches claim 1 **but is silent on** wherein received messages which are not of interest to the user are sorted out with the aid of the user profile stored in the memory of the mobile device

Bottum teaches use of a User ID/profile or menu selection (C3, L57-67 teaches ID Data that can be used to identify audio selection from categories).

It would have been obvious to one skilled in the art at the time of the invention to modify Olaniyan, such that received messages not of interest are sorted based on user profile, to provide automatic sorting of messages based on the user's preferences per their profile.

As per **claim 8**, Olaniyan teaches claim 1 **but is silent on** wherein the digital data is transmitted in a radio channel.

Bottum teaches transmission of program/menu data in the transmitted data stream (abstract).

It would have been obvious to one skilled in the art at the time of the invention to modify Olaniyan, such that data is transmitted in a radio channel, to provide means for the user to receive program data via their RF transceiver (which negates the need for a second communication means).

As per **claim 9**, Olaniyan teaches claim 1 and a TV receiver **but is silent on** digital data transmitted in a TV channel.

Bottum teaches digital data transmitted in a audio channel. One skilled understands that both audio and video channels (eg. Radio and TV) can support the transmission of program digital data.

It would have been obvious to one skilled in the art at the time of the invention to modify Olaniyan, such that data is transmitted in a TV channel, to provide means for the user to receive program data via their RF transceiver (which negates the need for a second communication means).

As per **claims 10 and 17**, Olaniyan teaches claim 1 or 15 **but is silent on** wherein the prepared message is a SMS message.

Bottum teaches a device that can transmit/receive via cellular technology (eg. CDPD) and hence can support SMS messages which are known in the art [C1, L55-60 and C7, L49-60].

It would have been obvious to one skilled in the art at the time of the invention to modify Olaniyan, such that messages are sent via SMS, to provide support for well known industry cellular messaging standards.

As per **claims 11 and 18**, Olaniyan teaches claim 1 or 15 **but is silent on** wherein the prepared message is a USSD message.

Bottum teaches a device that can transmit/receive via cellular technology (eg. CDPD) and hence can support SMS/USSD messages which are known in the art [C1, L55-60 and C7, L49-60].

It would have been obvious to one skilled in the art at the time of the invention to modify Olaniyan, such that the prepared message is an USSD message, to take advantage of the USSD messaging capability existing today in the cellular industry.

As per **claim 12**, Olaniyan teaches claim 1 **but is silent on** wherein the prepared message is signed.

Bottum teaches a registration process (C3, L54-67 and C5, L33-40) which reads on signing the message. This parallels the applicant's limitation of the message being signed, since a user is essentially informing the network of who they are (eg. signing a message) when they register. Other ways of "signing a message" to identify the user include the use of a Hash function, public Key and the use of a secret password/login.

It would have been obvious to one skilled in the art at the time of the invention to modify Olaniyan, such that the prepared message is signed, to ensure the authenticity of the transmitted message.

As per **claim 13**, Olaniyan teaches claim 1 **but is silent on** wherein the prepared message is encrypted.

Since cellular/wireless systems broadcast RF data for all to receive, one skilled in the art would provide encryption to protect a user from having personal data being stolen.

It would have been obvious to one skilled in the art at the time of the invention to modify Olaniyan, such that the prepared message is encrypted, to ensure that the message cannot be read by anyone other than the intended recipient.

As per **claim 15**, Olaniyan teaches claim 14 wherein the mobile radio components include a cellular/GSM phone (C3, L8-25).

As per **claim 19**, Olaniyan teaches claim 15 **but is silent on** a display.

Oba teaches a portable TV receiver that would be used to receive/display a TV broadcast.

Bottum teaches a mobile interactive radio system with a display that uses identification information from a user (C5, L19-39) who selects from program data (C5, L40-49 and figure 4 flow chart) audio programs of interest (abstract, figures 1-4 and C4, L49 to C5, L12).

It would have been obvious to one skilled in the art at the time of the invention to modify Olaniyan, such that a display is provided, to provide means for the user to view any program data which is received (and/or TV broadcasts).

**Claims 4 and 16** rejected under 35 U.S.C. 103(a) as being unpatentable over Olaniyan/Bottum/Oda/Johnstromer and further in view of Alperovich et al. U.S. Patent 6,138,002.

As per **claim 4**, Olaniyan teaches claim 1 **but is silent on** wherein the remote control transmitter contains a microcomputer/CPU which can store/execute any program and wherein the digital data ~~can~~ contain applets which are executed by the mobile device.

Bottum teaches a device with processor (C3, L20-32 teaches a laptop computer) for audio download/playing.

Alperovich teaches a system for providing services based on broadcasted information (title) and that the SIM card could include a JAVA platform which allows the BSS to send a JAVA script containing the time period application and counter application to the MS, which can then be run on the SIM card (C5, L9-17).

It would have been obvious to one skilled in the art at the time of the invention to modify Olaniyan, such that the mobile can execute applets, to provide the user means for receiving a program downloaded by the media program to allow the user to interact with said media program (eg. the program may download a specific software application that must for the user to use for shopping, etc.).



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As per **claim 16**, Olaniyan teaches claim 15 **but is silent on** wherein the ID card is a SIM card capable of executing the applets transmitted in the program-accompanying data.

Jonstromer teaches a GSM phone that uses a SIM card (C1, L28-44). The examiner notes that a SIM card can store any type of data (including JAVA Applets).

Alperovich teaches a system for providing services based on broadcasted information (title) and that the SIM card could include a JAVA platform which allows the BSS 380 to send a JAVA script 385 containing the time period application 320 and counter application 330 to the MS 300, which can then be run on the SIM card 310 (C5, L9-17).

It would have been obvious to one skilled in the art at the time of the invention to modify Olaniyan, such that the mobile can execute applets, to provide the user means for receiving a program downloaded by the media program to allow the user to interact with said media program (eg. the program may download a specific software application for the user to use for shopping, etc.).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 703-306-5426. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist on 703-306-0377.

SMD  
12-8-03



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